

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

GARY L. GREENFIELD, HARVEY A. KNELL,
DAVID O. PHILIPS, and JAMES M. RETTERER

Junior Party
(Patent No. 5,687,799),
v.

ROBERT JOHN BROCKWAY

Senior Party
(Application No. 09/599,679).

Patent Interference No. 105,806 (SCM)
(Technology Center 3600)

DECLARATION – Bd. R. 203(b)¹

Part A. Declaration of Interference

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application, patent, count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

¹ “Bd. R. x” may be used as shorthand for “37 C.F.R. § 41.x”. 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 Part B. Judge managing the interference

2 Administrative Patent Judge Sally C. Medley has been designated to manage
3 the interference. Bd. R. 104(a).

4 Part C. Standing order

5 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
6 DECLARATION. The STANDING ORDER applies to this interference. The
7 STANDING ORDER has recently been updated. An Executive Summary of
8 significant changes is provided.

9 Part D. Initial conference call

10 A telephone conference call to discuss the interference is set for 1:30 p.m.
11 on 19 July 2011 (the Board will initiate the call).

12 No later than four business days prior to the conference call, each party
13 shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd.R. 120; Bd.R. 204;
14 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

15 A sample schedule for taking action during the motion phase appears as
16 Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the
17 schedule prior to the conference call and to agree on dates for taking action. A
18 typical motion period lasts approximately eight (8) months. Counsel should be
19 prepared to justify any request for a shorter or longer period.

Part E. Identification and order of the parties

Junior Party

Named Inventors: GARY L. GREENFIELD, Palos Heights, IL
HARVEY A. KNELL, Yorkville, IL
DAVID O. PHILIPS, Metamora, IL
JAMES M. RETTERER, Naperville, IL

Involved Application: Patent 5,687,799 issued 18 November 1997, based
on application 08/700,598, filed 12 August 1996

Title: Wheel assembly for a compacting machine

Assignee: Caterpillar Inc.

Senior Party

Named Inventors: ROBERT JOHN BROCKWAY, Plymouth, WI

Involved Patent Application No. 09/599,679, filed 22 June 2000

Title: Compactor wheel axle guard system

Assignee: Bank First National

The senior party is assigned exhibit numbers 1001-1999. The junior party is
assigned exhibit numbers 2001-2999. Bd.R. 154(c)(1); SO ¶ 154.2.1. The senior
party is responsible for initiating settlement discussions. SO ¶ 126.1.

Part F. Count and claims of the parties

Count 1

Claim 1 of Greenfield's Patent

or

Claim 23 of Brockway's Application

1 The claims of the parties are:

2 Greenfield: 1-10

3 Brockway: 1-8, 11, 12, 14-20, 23, 25, 29, and 33-36

4 The claims of the parties which correspond to Count 1 are:

5 Greenfield: 1, 5 and 6

6 Brockway: 23, 25 and 29

7 The claims of the parties which do not correspond to Count 1 are:

8 Greenfield: 2-4 and 7-10

9 Brockway: 1-8, 11, 12, 14-20 and 33-36

10 The parties are accorded the following benefit for Count 1:

11 Greenfield: none

12 Brockway: application 08/732,901, filed 17 October 1996, now
13 patent 5,769,507, issued 23 June 1998

14
15 application 60/005,639, filed 19 October 1995
16

17 Count 2

18 Claim 7 of Greenfield's Patent

19 or

20 Claim 33 of Brockway's Application

21 The claims of the parties are:

22 Greenfield: 1-10

23 Brockway: 1-8, 11, 12, 14-20, 23, 25, 29, and 33-36

24 The claims of the parties which correspond to Count 2 are:

25 Greenfield: 7-10

26 Brockway: 6-8, 14, 15, 20, 33 and 34
27
28

1 The claims of the parties which do not correspond to Count 2 are:

2 Greenfield: 1-6

3 Brockway: 1-5, 11, 12, 16-19, 23, 25, 29, 35 and 36

4 The claims of the parties which do not correspond to either Count 1 or
5 Count 2 are:

6 Greenfield: 2-4

7 Brockway: 1-5, 11, 12, 16-19, 35 and 36

8 The parties are accorded the following benefit for Count 2:

9 Greenfield: none

10 Brockway: application 08/732,901, filed 17 October 1996, now
11 patent 5,769,507, issued 23 June 1998

12 application 60/005,639, filed 19 October 1995
13
14

1 Part G. Heading to be used on papers

2 The following heading must be used on all papers filed in this interference,
3 see SO ¶ 106.1.1:

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5

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8

9 GARY L. GREENFIELD, HARVEY A. KNELL,
10 DAVID O. PHILIPS, and JAMES M. RETTERER
11 Junior Party
12 (Patent No. 5,687,799),
13 v.

14 ROBERT JOHN BROCKWAY
15 Senior Party
16 (Application No. 09/599,679).
17

18 Patent Interference No. 105,806 (SCM)
19 (Technology Center 3600)
20
21

22 Part H. Order form for requesting file copies

23 When requesting copies of files, use of SO Form 4 will greatly expedite
24 processing of the request. Please attach a copy of Parts E and F of this
25 DECLARATION with a hand-drawn circle around the patents and applications for
26 which a copy of a file wrapper is requested.

27 /Sally C. Medley/
28 Administrative Patent Judge
29

1 Enc:

2 Copy of STANDING ORDER (March 2011)
3 Copy of Executive Summary of STANDING ORDER
4 Copy of claims of Application 09/599,679
5 Copy of Patent 5,769,507
6 Copy of Patent 5,687,799
7 Copy of Examiner's write-up

8
9 cc (via overnight delivery):

10 Attorney for Greenfield:

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